



Equal Employment Opportunity (EEO) Training for Managers/Supervisors



Objectives

- **Review EEO laws applicable to federal employees**
- **Review EEO statutory bases**
- **Employee and Management Rights and Responsibilities**
- **Review the federal Sector EEO Complaints Processing Procedures (29 CFR 1614)**
- **Review the use of Alternative Dispute Resolution (ADR) in EEO complaints and workplace disputes**



Policy

- **Equal opportunity and treatment for all employees and applicants regardless of race, color, religion, national origin, sex, age, disability (physical and/or mental), or reprisal (prior EEO activity)**
- **Develop and implement affirmative employment programs**
- **Create a diverse workplace free from any discriminatory act, practice, or personnel action, including sexual harassment**



Merit Systems Principles

- **Recruit qualified individuals from appropriate sources**
- **Treat all employees and applicants fairly and equitably**
- **Provide equal pay for work of equal value**
- **Maintain high standards of integrity, conduct and concern for public interest**
- **Use the Federal workforce efficiently and effectively**
- **Retain employees on the basis of performance**
- **Provide education and training to employees**
- **Protect employees from arbitrary action, personal favoritism or coercion for political purposes**
- **Protect employees against reprisal for the lawful disclosure of information**



Applicable Laws

- **Equal Pay Act of 1963 (can go directly to civil court)**
- **Title VII of the Civil Rights Act of 1964**
- **Age Discrimination in Employment Act of 1967 (ADEA) (can go directly to civil court)**
- **Rehabilitation Act of 1973**
- **Americans with Disabilities Act of 1990 (ADA) (Amended January 2009)**
- **Title VII of the Civil Rights Act of 1991**
- **Executive Order 13087**

The Equal Employee Opportunity Commission enforces these laws and provides oversight and coordination of all federal EEO regulations, practices and policies.

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Protected Bases



- **Race**
- **Color**
- **Religion**
- **National Origin**
- **Sex**
- **Age**
- **Disability (physical and/or mental)**
- **Reprisal (prior EEO activity)**
- **Genetic Information**



HARASSMENT

- **“Hostile work environment” includes unwelcomed comments or conduct that unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment**
- **Harassment in the workplace occurs when an individual or group is treated inappropriately because of their membership in one or more of the protected bases (race, color, age, religion, national origin, sex, disability and reprisal)**



HARASSMENT

- **The employer is liable for harassment by co-workers or non-employees if it knew or should have known of the misconduct, unless the employer can show that it took immediate and appropriate corrective action**



HARASSMENT (cont.)



- The employer *is always liable* for harassment by a supervisor that results in a tangible employment action.
- Tangible employment actions include:
 - Hiring
 - Firing
 - Promotions
 - Failure to promote
 - Demotions
 - Undesirable reassignments
 - Decision causing significant change in benefits
 - Compensation decisions
 - Work assignments



HOW TO LIMIT LIABILITY DAMAGES

- **Employers may avoid liability and limit damages from unlawful harassment if:**
 - ✓ **There is NO tangible action involved**
 - ✓ **Prompt, reasonable care is exercised by the employer to prevent and correct any harassing behavior**
 - ✓ **The employee unreasonably fails to take advantage of any preventive or corrective opportunities provided by the employer to avoid harm otherwise**



Employee's Rights



■ Employees:

- Can file a complaint on any matter that impacts their employment
- Are not required to go through the chain of command
- May remain anonymous during the informal process
- Are entitled to a **REASONABLE** amount of official time to prepare/present complaint or meet with EEO officials (seek guidance before any denial of official time, which must be in writing)



Employee's Rights (cont'



- **Official time:**

- **Employee must check with supervisor before using official time**
- **Supervisor and employee should arrive at a mutual understanding as to the amount of official time prior to use**
- **Employer is not obligated to change work schedules, pay overtime or travel expenses (circumstances could vary)**



Manager's/Supervisor's Rights



■ Managers/Supervisors:

- Are to be made aware of the specific allegation of discrimination for which he/she has been named as a Responsible Management Official(RMO)
- Can present any evidence in support of your position in defending the allegation of discrimination for which you have been named as an RMO
- Can review the complaint file prior to giving testimony at the formal investigation stage and/or hearing stage
- Can review any transcript, statement or affidavit reflecting your interview
- Can offer ADR in an effort to resolve the dispute
- Determine reasonable amounts of official time



Manager/Supervisor Responsibilities



- **Ensure your actions are free from discrimination**
- **Monitor the conduct of your employees to ensure your workplace is free from hostile, discriminatory, and/or offensive behavior, including sexual harassment**
- **Take immediate action to investigate and take appropriate corrective action in cases of inappropriate behavior**
- **Communicate the discrimination complaint procedures to your employees to ensure they are aware of their rights & responsibilities (*have EEO policy statements and EEO posters posted on all official bulletin boards*)**



Manager's/Supervisor's Responsibilities



- **Cooperate with EEO officials, specialists and investigators, and the designated agency representative**
- **Seek reasonable resolution of potential complaints during the pre-complaint stage and cooperate with any effort to settle formal complaints**
- **Keep your chain of command advised of the complaint and input you provided!**



Who Can File a Complaint?

- **Employees**
- **Applicants for employment**
- **Former employees**





Alternative Dispute Resolution (ADR)

- **Alternative Dispute Resolution is strongly encouraged, and is offered at initial counseling**
- **ADR is voluntary - both management and complainant must agree to engage in ADR**
- **Complainant does not waive right to proceed with formal complaint, even if resolution is not reached**
- **Preferred ADR technique is Mediation**



Remedies In Findings of Discrimination



- **Back Pay**
- **Hiring**
- **Promotion**
- **Reinstatement**
- **Reasonable Accommodation**
- **Compensatory Damages**
- **Payment of attorney fees**
- **Court costs**
- **Post of Notices to all employees addressing the violation(s)**
- **Corrective or preventive actions**
- **Others action that will make an individual "whole"**



Advice for Supervisors/Managers



- **Carefully examine your words before you speak and/or write. Remember, your comments may reflect a bias**
- **Be consistent in the manner in which you treat your employees**
- **Always apply standards equally. Consider only factors that are objective and job related**
- **Keep factual and accurate records. Make sure your records reflect the facts of a situation rather than an opinion and/or assumption**
- **When in doubt about any situation seek guidance from your chain-of-command, EEO, CPAC, and/or Legal (we are all here to assist you)**
- **Don't take an employee's filing of an EEO complaint personal and never retaliate! Ask yourself - Would you treat an employee who hadn't filed a complaint the same way?**



Points of Contact



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